

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON

KIMBERLY A. GERST,

Plaintiff,

v. Civil Action No. 2:15-14110

STEVEN L. EDDY and EDDY
CHIROPRACTIC CLINIC, INC.

Defendants.

MEMORANDUM OPINION AND ORDER

Pending is the plaintiff's motion to remand, filed November 5, 2015, to which the defendants responded on November 6, 2015.

This action, filed in the Circuit Court of Wood County on August 27, 2015, was removed by the defendants on October 16, 2015 pursuant to 28 U.S.C. § 1332(a) and 28 U.S.C. § 1441. Plaintiff is a citizen of Washington County, Ohio. Defendant Steven Eddy is a citizen of West Virginia, and defendant Eddy Chiropractic Clinic, Inc. is a West Virginia corporation.

The plaintiff contends that this court lacks diversity jurisdiction because defendants are citizens of West Virginia. The defendants do not dispute that they are West Virginia

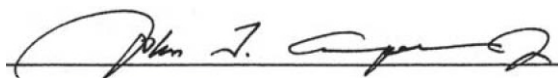
citizens and accordingly do not oppose the plaintiff's motion to remand.

28 U.S.C. § 1441(b) provides that "[a] civil action otherwise removable solely on the basis of the jurisdiction under section 1332(a) of this title may not be removed if any of the parties in interest properly joined and served as defendants is a citizen of the State in which such action is brought." The parties agree that both defendants are West Virginia citizens and that 28 U.S.C. § 1441(b) precludes removal of this case.

Based upon the foregoing, the court concludes that it lacks subject matter jurisdiction. The court, accordingly, ORDERS that plaintiff's motion to remand be, and it hereby is, granted. The court further ORDERS that this action be, and it hereby is, remanded for all further proceedings to the Circuit Court of Wood County.

The Clerk is directed to forward a copy of this written opinion and order to counsel of record and any unrepresented parties and a certified copy to the clerk of court for the Circuit Court of Wood County.

DATED: November 10, 2015

A handwritten signature in black ink, appearing to read "John T. Copenhaver, Jr.", is written over a horizontal line.

John T. Copenhaver, Jr.
United States District Judge